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FEDERAL COMMUNICATIONS COMMISSION
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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	cc: Docket Nos. 97-2494
	)	97-211
Worldcom, Inc. and MCI	)	
Communications Corporation	)	

Comments
American Federation of Labor and Congress of Industrial Organizations

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COMMENTS OF
AMERICAN FEDERATION OF LABOR AND
CONGRESS OF INDUSTRIAL ORGANIZATIONS

These are the comments submitted by the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), filed in response to the joint application by MCI Communications Corporation ("MCI") and Worldcom, Inc. ("Worldcom"), pursuant to Sections 214 and 310(d) of the Communications Act of 1934, as amended, to transfer control of MCI's Title II and Title II authorizations and licenses to Worldcom, Inc.

Pursuant to the Telecommunications Act of 1996, the Federal Communications Commission is authorized to review applications both under the Commission's traditional public interest standard and for compliance with Section 7 of the Clayton Act. The Commission has historically viewed its review of license transfers as one focused on the public interest, and in particular on the interests of telecommunications consumers.[1] The Commission is required to find that "the public's interest, convenience and necessity will be served" by the granting of this application.[2]

The AFL-CIO is a federation of national and international unions representing 14 million working people and their families. America's working families are consumers of telecommunications services, and participants in an economy whose growth is increasingly dependent on reliable, economical data transmission. America's working families have a tremendous stake in the health of local, long distance and Internet markets.

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[1] U.S. v. F.C.C., 652 F.2d 72, 102 (1980).

[2] 47 U.S.C. 309(a).

Millions of our members have particular concerns regarding the development of effective telecommunications systems. In addition to approximately 1.000,000 members working directly in the telecommunications industry, our members include teachers who increasingly must have affordable access to the Internet and firefighters who depend on universal access to telecommunications services.

For the reasons discussed below, the Worldcom-MCI merger poses serious dangers to both the access of our members and working people generally to affordable Internet services, and to the health and future growth of America's telecommunications system. The merger substantially lessens competition and is not in the public interest. Therefore, just as the Commission was critical of a possible AT&T-SBC merger earlier this year, the Commission is obligated under the 1934 and 1996 Acts to deny the Worldcom application.

We will address in some detail the following areas of concern: Internet market structure, local telephone service, and Worldcom's business strategy.

Internet Market Structure

Press reports suggest that currently MCI is the largest operator of the high-speed intercity transmission cables referred to in a Commission study as the "backbone of the Internet."[3] The Internet "backbone" is a unique set of assets for which there is no close demand substitute, and which would require massive and likely prohibitive capital investment to duplicate. MCI has

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[3] Kevin Werbach, *Digital Tornado: The Internet and Communications Policy,* OPP Working Paper Series No. 29, March 1997, p. 12. For market share data, see *Boardwatch,* June, 1997; Thomas E. Weber and Rebecca Quick, "Would Worldcom-MCI Deal Lift Tolls on Net?" *Wall Street Jounral,* Oct. 2, 1997, B-1.

approximately 35% of the total connections in the Internet, servicing approximately 40% of the total Internet Service Providers. Entities controlled by Worldcom own approximately 20% of the backbone. The combined firm will control a majority of the Internet backbone. This is particularly troubling since the next largest backbone operator, Sprint IP Services, owns 25-30% of the intercity links, meaning that the Internet backbone, which today has three large national competitors, and a half-dozen smaller ones, will be an effective duopoly upon the conclusion of the MCI-Worldcom merger.

The Internet boom, with its attendant economic benefits, has largely been driven by the existence of voluntary peering arrangements, that allow Internet Service Providers (ISP's) free access to the Internet backbone. These ISP's then provide consumers unlimited Internet access for a low fixed monthly fee. The benefits to the public have been vast. From the perspective of working America, the Internet has provided access to information previously only available from commercial databases at costs beyond our members' means.

It is likely that the merged MCI-Worldcom would have the power to alter the consumer economics of the Internet. Recent efforts by Worldcom's UUNet to force small Internet Service Providers off their network suggests that Worldcom's management is hostile to the voluntary peering arrangements.[4] The merged entity would be in a position to benefit from exerting pressure on ISP's because of its ownership of several of the largest ISP's, including Compuserve, UUNet, MCI and a formerly AOL ISP. The result of the merger would be an immediate horizontal duopoly in the Internet backbone, with the strong possibility of the merged entity

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[4] "UUNet Details Pay 'Peering' Strategy for Smaller ISP's," *TR Daily*, May 12, 1997.

achieving market dominance in the ISP market.

The consequences of any one company achieving market power over the Internet could be very serious—ranging from imposing time-based fees on consumers to having the ability to control Internet content. Some of those most likely to be hurt would include public schools and working families, particularly children using the Internet for educational purposes.

Recently, the Commission acted to discourage a contemplated SBC-AT&T merger because of its potential for vertically reintegrating local and long-distance services. The Worldcom-MCI merger presents the same dangers in the Internet market.

Because the market for Internet services is unregulated, this application is the critical moment for the Commission to act to ensure the continued broad-based growth of the Internet. If this merger goes forward, the only avenues for protecting the interests of Internet consumers will be litigation or legislation, neither of which is likely to keep pace with the speed of developments in this industry.

The Impact of the Merger on Local Phone Competition

The 1996 Act has made competition in local telephone service markets a national policy. Competition, with its attendant deregulation, requires strong competitors with a commitment to universal service. MCI is currently a significant provider of local service, with 9,000 miles of fiber optic cables in 100 markets to be preparing to enter the local service market. MCI has announced plans to invest $2 billion in local service wires and switches, investments that are projected to generate 100,000 jobs over a ten-year period. These investments are aimed at making MCI a significant competitor in local residential service, building on MCI's experience in marketing and managing residential long-distance services. The Wall Street Journal has observed that of the long distance companies, "only MCI was interested in spending real money on local wires and switches."[5]

Worldcom has announced anticipated merger synergies of $1.2 billion in the year 2002. There is reason to believe these are not true synergies. Rather they may represent a retreat from MCI's local residential service plans in favor of a much less capital intensive strategy of primarily servicing business customers. While Worldcom's CEO may have officially repudiated his statement to the Washington Post that Worldcom intended to sell MCI's residential customers back to the Baby Bells, the "synergy" figures suggest the merged entity will not be a robust residential service competitor.[6] Furthermore, even if Worldcom wanted to compete for residential service, the $14 billion debt burden it will be taking on as part of the merger would appear to hamper the firm's ability to invest its cash flow in long-term capital improvements in the early years after the merger.

The consequences for the public of the merged entity's retreat from residential service would be significant. Residential and small business customers would be more likely to face a deregulated local market without meaningful competition in many localities.

Worldcom's Vertical Integration Strategy

The merged company would be the dominant Internet provider, the second-largest long-

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[5] "MCI Played the Regulation Game and Lost," November 27, 1997.

[6] *Washington Post*, October 3, 1997.

distance provider, and a major provider of local phone networks for business customers. Through product bundling, this combination raises the threat of unregulated cross-subsidization of telecommunications products. Such cross-subsidization would likely increase the merged entities' ability to cherry-pick large business customers. The result would be that it would be much more difficult for new competitors to enter local phone markets, and the Universal Service Fund would be rapidly depleted as business customers are drawn into the merged entities' private market.

Though the threat of vertical integration is not as immediately apparent as the SBC-AT&T merger appeared, the consequences of the Worldcom-MCI merger are similar, and the Commission ought to have a similar response.

Conclusion

America's working families are those most likely to be hurt by the disaggregation of local phone markets, as they are the most likely to be hurt by the ability of any one company to wield market power over the Internet. It is the responsibility of the Commission in the new deregulated environment to be the watchdog for the consumer, and particularly for those consumers with the least market power and the greatest need for affordable access to information and communication.

The Worldcom-MCI merger is a serious threat to America's working families' ability to participate in the new Information Age because it threatens to create a vertically integrated communications giant with dramatic market dominance in obscure but vital parts of the telecommunications industry.

There are few more important duties than protecting affordable local phone service. There is ample evidence that this merger and the business strategy being pursued by Worldcom are harmful to healthy local phone service markets. On that basis alone, the Commission should reject the application. But the case for rejecting the application is overwhelming given that this will be the only regulatory opportunity to prevent this merged entity from exerting monopoly power over crucial aspects of the Internet.

Thank you for this opportunity to comment on this matter.

Respectfully submitted,

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January 5, 1998